

1 **BRIAN D. SHAPIRO**  
2 Trustee in Bankruptcy  
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E-filed: March 24, 2010

5 **UNITED STATES BANKRUPTCY COURT**  
6 **DISTRICT OF NEVADA**

7 In Re:

8 **THEODORE GORDON,**

9 **Debtor(s).**

10 Chapter 7  
11 Case No. 09-24829-MKN

12 **TRUSTEE'S MOTION TO SELL NON-**  
13 **EXEMPT ASSETS SUBJECT TO ANY**  
14 **AND ALL LIENS AND ENCUMBRANCES**

15 Hearing Date: April 28, 2010  
16 Hearing Time: 11:00 a.m.

17 BRIAN D. SHAPIRO, TRUSTEE respectfully moves this Court for an Order allowing  
18 the Trustee to sell the Estate's interest in 63 shares of common stock in Swift Transportation  
19 Co. Inc. ("stock") and real property located at Lake Mohave Ranchos Unit 8 1<sup>st</sup> Amend Lot 408,  
20 Parcel # 32804387 ("real property") subject to any and all liens and encumbrances, without  
21 warranty and in an "as is" condition to Theodore Gordon. This motion is based upon the  
22 following points and authorities, the pleadings and proceedings had herein, the Declaration of  
23 Brian D. Shapiro in Support and any oral argument this Court may permit.

24  
25 /s/ Brian D. Shapiro  
26 BRIAN D. SHAPIRO, TRUSTEE

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## **I. Statement of Facts**

The following Facts are based upon the Declaration of Brian D. Shapiro, which is being filed contemporaneously with this motion.

1. On August 13, 2009 the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada. Id.
2. Brian D. Shapiro was appointed as Chapter 7 Trustee in said case. Id.
3. The 341 Meeting was concluded on September 21, 2009. At said meeting, Debtor testified that he owns 100% in Lake Mohave Ranchos Unit 8 1<sup>st</sup> Amend Lot 408, Parcel # 32804387. He further testified that said property is owned free and clear of liens. Id.
4. The real property is valued at \$3,500.00. Id.
5. Debtor further testified that he owned 63 shares of common stock in Swift Transportation Co. Inc., which has been valued at approximately \$1,000.00. Id.
6. The Trustee entered into a stipulation with Theodore Gordon, Debtor to purchase the Estate's interest in the real property and stock for a combined value of \$4,500.00. See stipulation attached to the Declaration of Brian D. Shapiro as EXHIBIT 1. Id.
7. The Trustee has examined the value of the stock and real property and believes that the purchase price is approximately equal to its actual value. Id.
8. Debtor is currently making monthly payments to complete the purchase of the stock and real property. Id.

1           9. The Trustee also believes that it is in the best interest of the Estate to sell said stock  
2           and real property to Theodore Gordon. Id.

3           **II. Legal Argument**

4           **STATEMENT OF LAW:**

5           This Motion is brought pursuant to 11 U.S.C. §363 which provides:

6           (b)(1) The trustee after notice and a hearing, may use, sell, or lease,  
7           other than in the ordinary course of business, property of the estate.

8           . . .

9           (f) The trustee may sell property under Section (b) or (c) of  
10           this Section free and clear of any interest in such property of an  
11           entity other than the estate, only if -

12           . . .

13           (3) Such interest is a lien and the price at which such property is to  
14           be sold is greater than the aggregate value of all liens on such  
15           property;

16           The Trustee believes that the proposed sale is in the best interest of the Estate, and that  
17           considering the circumstances, the Estate is receiving fair and reasonable value for the assets  
18           being sold.

19           **III. Conclusion**

20           The Trustee respectfully requests this Court to approve the sale of the stock and real  
21           property, less costs of sale and commissions, authorizing the Trustee to sign any and all  
22           documents to consummate the sale.

23           DATED this 24<sup>th</sup> day of March, 2010.

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26  
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28           */s/ Brian D. Shapiro*  
                  BRIAN D. SHAPIRO, TRUSTEE